

JAN 24 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN ANTONIO CASTRO-MARQUEZ;
GRACIELA GALVAN DE CASTRO,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General; MICHAEL B. MUKASEY,
Attorney General,

Respondents.

No. 04-75969

Agency Nos. A76-858-589
A76-858-588

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted January 16, 2008
San Francisco, California

Before: NOONAN, W. FLETCHER, and BEA, Circuit Judges.

Juan Castro-Marquez and his wife, Graciela Galvan de Castro (together, the
“Castros”), petition for review of a Board of Immigration Appeals (“BIA”)

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

decision affirming the denial by the Immigration Judge (“IJ”) of their application for cancellation of removal. The BIA relied solely on the Castros’ failure to meet the requirement of “exceptional and extremely unusual hardship” set out in 8 U.S.C. § 1229b(b)(1)(D). This is a discretionary determination that Congress has “carved out of our appellate jurisdiction” under 8 U.S.C. § 1252(a)(2)(B).

Romero-Torres v. Ashcroft, 327 F.3d 887, 888 (9th Cir. 2003).

We nevertheless retain jurisdiction to review colorable constitutional claims. The Castros argue that the IJ in this case displayed bias that infected every part of his decision, amounting to a denial of due process. They argue further that the BIA’s review failed to cure this denial. Their argument fails to persuade: The IJ did not impede the development of a full evidentiary record on the hardship issue, and if he felt animus toward the Castros, there is no evidence such animus affected the BIA’s review of the record or its final decision.

For the reasons stated, the petition is DENIED.